



PUBLIC NOTICE

Federal Communications Commission
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DA 10-94

Released: January 15, 2010

COMMENT SOUGHT ON MAINE PUBLIC UTILITIES COMMISSION
PETITION FOR DECLARATORY RULING REGARDING
SECTION 271 ACCESS TO DARK FIBER FACILITIES AND LINE SHARING

PLEADING CYCLE ESTABLISHED

WC Docket No. 10-14

Comment Date: March 1, 2010

Reply Comment Date: March 15, 2010

On November 25, 2009, the Maine Public Utilities Commission (“MPUC”) filed a petition for declaratory ruling on the scope of carriers’ section 271 obligations regarding dark fiber facilities and line sharing.¹ The MPUC subsequently amended its petition on December 2, 2009.² The MPUC specifically requests that the Commission “determine whether line sharing, certain dark fiber loops, dark fiber transport and dark fiber entrance facilities are facilities falling within items four and/or five of the ‘competitive checklist’ found in 47 U.S.C. § 271(c)(2)(B)(iv),(v).”³

This petition is filed against the backdrop of litigation over the MPUC’s ruling that dark fiber entrance and transport facilities must be provisioned to competing carriers in the state of Maine. The parties to the litigation agreed to seek a determination from the Commission after the U.S. Court of Appeals for the First Circuit decided that the interpretation of section 271 in this matter should be handled by the Commission.⁴ We seek comment on the petition, which requests a declaratory ruling from the Commission regarding whether section 271 requires Northern New England Telephone Operations, LLC, d/b/a FairPoint Communications-NNE (FairPoint) (successor to Verizon as the Regional Bell Operating Company in Maine) to make certain dark fiber loops, dark fiber transport, dark fiber entrance facilities, and line sharing available to competitors seeking access and interconnection services from FairPoint in Maine.⁵

Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

¹ Maine Public Utilities Commission, Petition for a Declaratory Ruling Regarding Section 271 of the Telecommunications Act of 1996, WC Docket No. 10-14 (filed Nov. 25, 2009), *available at* <http://webapp01.fcc.gov/ecfs/document/view?id=7020356538>.

² Maine Public Utilities Commission, Amended Petition for a Declaratory Ruling Regarding Section 271 of the Telecommunications Act of 1996, WC Docket No. 10-14 (filed Dec. 2, 2009) (Maine Amended Dark Fiber Petition), *available at* <http://webapp01.fcc.gov/ecfs/document/view?id=7020356695>.

³ Maine Amended Dark Fiber Petition at 1.

⁴ Maine Amended Dark Fiber Petition at 4.

⁵ *Id.*

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 permanently closed on December 24, 2009.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, D.C., 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at fcc@bcpweb.com.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

For further information, contact Claude Aiken, Competition Policy Division, Wireline Competition Bureau at (202) 418-1580.

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